IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1140 OF 2002

Yogendra Prasad Sharma)
Yard Master (working as)
Traffic Inspector (Nandurbar))
Western Railway, Bombay Division)
Mumbai Central.) ... Petitioner

Versus

1. The Union of India)
represented by the General)
Manager, Western Railway,)
Churchgate, Mumbai.)

2. The Divisional Railway Manager)
Mumbai Division, Western)
Railway, Mumbai Central,)
Mumbai.) ... Respondents

Mr. G.J. Mohanrao for the petitioner.

Mr. Sureshkumar for the respondents.

CORAM: V.G. PALSHIKAR &
SMT. RANJANA DESAI, JJ.

DATED: 10TH AUGUST, 2004.

JUDGMENT:- (Per Smt. Ranjana Desai, J.)

1. The petitioner joined the Indian Railways on 31/8/1987. He was working as Station Master in Central Railway, Solapur Division. On his selection as Traffic Apprentice, he joined Western Railway on 21/8/1989 in the grade of Rs.1,600/- - Rs.2,660/- (RP) and was posted as Station Master, Bhestan (near Surat) for five months and then sent to Udaipur for sometime. He was then called back to the headquarters at Bombay to join other Traffic Apprentices of his batch.

2. The Traffic Apprentices were required to undergo two years of training. On successful completion of apprenticeship training, the Traffic Apprentices are allotted to any of the following four categories viz. (i) Traffic Inspector, (ii) Deputy Station Master, (iii) Assistant Trains Controller and (iv) Yard Master, in the pay scale of Rs.1,600/- - Rs.2,660/-. It is the case of the petitioner that two merit lists were prepared by the respondents. Vide order dated 7/8/1991, the petitioner was allotted to Assistant Train Controller category in the second list. However, this order was kept in abeyance and a fresh order was passed on 20/8/1991. The allotment was revised and the petitioner was allotted the category of the Yard Master. Being aggrieved by this, the petitioner made a representation to the Divisional Railway Manager on 10/9/1991. However, this representation was not considered. The petitioner made several other representations but, the same were also not considered.

3. Vide memo dated 23/3/1995, the petitioner was ordered to work as Deputy Station Superintendent, Surat. He worked on that post from 23/3/1995 to 31/12/1995. Thereafter, again he was asked to work as Traffic Inspector, Nandurbar, vide order dated 2/11/1995 in the pay scale of Rs.2,000/- - Rs.3,500/-. He was not granted the pay of the post of Deputy Station Superintendent or the Traffic Inspector. The petitioner was then posted to

look after the work of Traffic Inspector, Nandurbar. However, this posting order was again changed on 19/2/1998. He was posted as CTNIC-NDB in the same scale and against the existing vacancy.

4. The petitioner's grievance is that there is a very little scope for promotion in the Yard Master's category. Yard working is gradually being reduced and the yards in several places have been closed. In many places, the work of the Yard Master is being performed by Train Clerks/Senior Train Clerks. While the promotional posts in the other three categories viz. Traffic Inspector, Deputy Station Master and Assistant Trains Controller, have increased, the promotional posts in the Yard Master's category has considerably diminished.

5. According to the petitioner, he made several representations to the concerned authorities. However, the petitioner's grievance was not redressed. There were six other Traffic Apprentices, who were allotted to the other categories. Only the petitioner was singled out to the Yard Master's category, thus resulting in discrimination. Though the petitioner was asked to look after the work of Deputy Superintendent and Assistant Train Controller, Nandurbar for some time, he has not been given the pay of those posts though he is eligible for promotion to those posts by virtue of his training and seniority in the apprentice cadre.

6. Against the backdrop of the above facts, the petitioner preferred Original Application No.531 of 1995 before the Central Administrative Tribunal, Mumbai Bench, (for short, "the tribunal") inter alia, praying that the order dated 20/8/1991, to the extent it deprives the petitioner of his right of being posted as Traffic Inspector, be set aside and he be reallotted the category as Traffic Inspector from 20/8/1991. He also prayed for consequential fixation of his pay. The tribunal by its order dated 11/1/2001, rejected the petitioner's application. Hence, this petition.

7. We have heard Mr. Mohanrao, the learned counsel appearing for the petitioner and Mr. Sureshkumar, the learned counsel appearing for the respondents, at some length.

8. A perusal of the tribunal's order shows that apart from the fact that the petitioner was very low in the merit list what weighed with the tribunal is the fact that the petitioner has taken his own time to approach the tribunal. The tribunal has observed that the petitioner approached the tribunal in 1995 after the limitation period was over.

9. We feel that the tribunal is right in dismissing the petitioner's application. Apart from the fact that there is inordinate unexplained delay in filing the original application, we find that from the letter of the

principal of the Regional Training Centre, Udaipur, dated 6/5/2000, which was produced by the respondents, it was clear that the petitioner had obtained the lowest marks. The tribunal has rightly observed that the allotment of the post is dependent on the aptitude, suitability and the vacancy position. Even if the petitioner's case is examined from the angle of suitability, the tribunal's order cannot be faulted. In the circumstances, we find it difficult to interfere with the impugned order passed by the tribunal. Hence, the petition is rejected.

(V.G. PALSHIKAR, J.)

(SMT. RANJANA DESAI, J.)